

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Tony L. Hammond; and
Nanci E. Langley

Gwynedd Post Office
Gwynedd, Pennsylvania

Docket No. A2011-15

ORDER AFFIRMING DETERMINATION

(Issued August 30, 2011)

I. INTRODUCTION

On May 3, 2011, the Commission received a petition from Christina Surowiec (Petitioner) seeking review of the Postal Service's determination to close the Gwynedd station, located in Gwynedd Pennsylvania (Gwynedd station).¹ After review of the record, the Commission affirms the Final Determination to close Gwynedd station.

¹ Petition for Review received from Christina Surowiec, May 3, 2011 (Petition). On May 25, 2011, the Petitioner also filed an Application for Suspension Pending Review. By Commission rule, an application for suspension is due with the filing of the Petition. Thus, the Petitioner's application is untimely.

II. PROCEDURAL HISTORY

On May 9, 2011, the Commission established Docket No. A2011-15 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any pleadings responsive to the appeal.²

On May 18, 2011, the Postal Service filed a notice in support of its decision.³ As an initial matter, the Postal Service explains that the Gwynedd postal facility is classified as a station and not a post office. Thus, the Postal Service contends that it is not required to file the Administrative Record.⁴ The Postal Service further argues that the procedural requirements of 39 U.S.C. 404(d) do not apply, asserting that section 404(d) is only applicable where customers lose access to postal services. The Postal Service contends this is not the case where alternative facilities are in close proximity to the discontinued facility.⁵ The Postal Service concludes by summarizing the steps it has undertaken that it believes satisfy the salient features of 39 U.S.C. 404(d).

On June 23, 2011, the Commission requested the Postal Service to provide the Administrative Record supporting its Final Determination to close Gwynedd station.⁶ On June 27, 2011, the Postal Service filed the Administrative Record.⁷ On May 27,

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, May 9, 2011 (Order No. 726).

³ Notice of United States Postal Service, May 18, 2011 (Notice). The Notice includes five exhibits: Exhibit 1, Final Determination to Close the Gwynedd, PA Classified Station and Extend City Delivery Service (Final Determination) dated March 14, 2011; Exhibit 2, Post Office Locations which identifies five additional Postal Service retail facilities near the 19436 ZIP Code; Exhibit 3, Alternative Locations to Buy Stamps which identifies ten additional locations to buy stamps; Exhibit 4, a Dear Postal Customer letter dated February 15, 2011; and Exhibit 5, a Dear Postal Customer letter dated April 4, 2011.

⁴ The Commission has repeatedly rejected the Postal Service's jurisdictional arguments based on the Postal Service's internal categorization of its retail facilities. See Docket No. A2010-3, Order No. 477 Order Dismissing Appeal (East Elko), June 22, 2010, at 5-6.

⁵ The Commission does not find the fact pattern similar between the circumstances surrounding East Elko and Gwynedd station closures for this argument to apply.

⁶ Commission Information Request No. 1, June 23, 2011.

⁷ See United States Postal Service Notice of Filing and Application for Non-Public Treatment, June 27, 2011, which included a redacted copy of the Administrative Record. An unredacted copy was filed under seal. The Administrative Record is cited herein as Administrative Record.

2011, the Postal Service filed additional comments which expand upon the arguments made in its Notice and incorporate aspects of the Administrative Record.⁸

On June 7, 2011, the initial brief of the Petitioner was filed, which expands on her initial arguments against closing Gwynedd station.⁹ Reply briefs were filed by the Petitioner and the Public Representative.¹⁰ The Petitioner also filed supplemental comments.¹¹ Additional comments were filed by Konrad S. Surowiec, Ronald M. DeOrzio, Sr. and Arthur W. Jones, Jr.¹²

III. BACKGROUND

Gwynedd station is located in Gwynedd, Pennsylvania. Final Determination at 3. It provides service 15 hours a week from 8:00 a.m. to 11:00 a.m. Monday through Friday, and is closed on Saturday. *Id.* In addition to providing retail services, e.g., sale of stamps, stamped paper, and money orders, it provides service to 141 post office box customers. *Id.*

The Postal Service has determined to close Gwynedd station and provide customers city delivery service administered by the North Wales post office, which is located two miles away from Gwynedd station. *Id.* For customers currently receiving mail by letter carrier delivery, there will be no change in there delivery service. Administrative Record, Item No. 22 at 1. Post office box customers have the option of receiving home delivery or obtaining Post Office Box service at the Springhouse station, also located two miles away from Gwynedd station. Final Determination at 1.

⁸ Comments of United States Postal Service, June 27, 2011 (Postal Service Comments).

⁹ Initial Brief in Support of Petition, June 7, 2011 (Petitioner Brief).

¹⁰ Reply Brief in Response to USPS Filing of June 27, July 13, 2011 (Petitioner Reply Brief); Reply Brief of the Public Representative, July 12, 2011 (PR Reply Brief).

¹¹ Petitioner's Supplemental Comments in Response to Administrative Record, July 18, 2011.

¹² Arthur W. Jones, Jr. letter dated August 16, 2011; Konrad S. Surowiec letter dated May 18, 2011; Ronald M. DeOrzio, Sr. letter dated May 20, 2011.

The Postal Service states that from fiscal years 2008 through 2010, Gwynedd station retail transactions have declined by approximately 40 percent while revenue has declined by approximately 41 percent for the same period. *Id.*

The Postal Service indicates that effective and regular service will continue to be provided through city delivery service and Post Office Box service at Springhouse station. City carrier service is administered by the North Wales post office. Window service hours at the North Wales post office are from 8:00 a.m. to 4:30 p.m. Monday through Friday and 9:00 a.m. through 11:00 a.m. on Saturday. *Id.*

On February 15, 2011, postal customers were informed of the possible change in service. On March 3, 2011, representatives from the Postal Service were available at Gwynedd station to answer questions and provide information to customers. *Id.* On April 4, 2011, customers were notified that Gwynedd station would close on May 27, 2011. *Id.* Exhibit 5.

IV. PARTICIPANT PLEADINGS

Petitioner. On several grounds, Petitioner opposes the closure of Gwynedd station, arguing that its decision is arbitrary and capricious. Petitioner Brief at 5-10; see also Petitioner Reply Brief at 2-3.

Petitioner argues that the Postal Service failed to follow the procedures for closing a post office established in 39 CFR § 241.3. Petitioner insists that prior to holding the community meeting to gather public input the Postal Service already had made its decision to close Gwynedd station. In support of her claim, Petitioner states that one of the speakers at the March 3, 2011, community meeting indicated that postal officials had already taken actions to close Gwynedd station. Petitioner Brief at 5.

Petitioner asserts that the Postal Service failed to demonstrate that Gwynedd station is not economically viable. Petitioner contends that the decline in receipts at Gwynedd station must be considered in context of the cutback in hours at the post office, the economic recession, and current road construction on U.S. Route 202 occurring in front of Gwynedd station. *Id.* at 7.

Petitioner maintains that the Postal Service's statement that the road construction will permanently restrict road access is inaccurate. *Id.* at 7-8. Petitioner maintains that after the road construction is complete access to Gwynedd station may be safer. *Id.* at 8.

She also explains that there has been an increase in natural gas drilling in much of rural Pennsylvania which has caused an increase in population and economic activity. *Id.* at 5. Considering these increases, Petitioner claims that closing Gwynedd station would lead to the loss of business for the Postal Service. *Id.*

Petitioner further argues that the Postal Service's Final Determination failed to provide an accurate record of concerns expressed by the community. *Id.* at 6. Petitioner recalls that most of the discussion at the community meeting related to concerns about parking at the alternative Springhouse station. *Id.* at 9. Petitioner questions how the Postal Service prioritized the list of concerns that it generated and indicates that postal representatives refused to respond to requests for access to notes taken during the meeting. *Id.* at 8. Petitioner, however, agrees with the Postal Service that closing Gwynedd station poses a significant concern for senior citizens. *Id.* at 9-10.

Public Representative. The Public Representative contends that the decision to close Gwynedd station is seriously flawed and should be remanded to the Postal Service to remedy the deficiencies. PR Reply Brief at 14.

The Public Representative urges the Commission to reject the Postal Service's jurisdictional arguments and distinguishes the circumstances surrounding the East Elko closing cited by the Postal Service from Gwynedd station closing. *Id.* at 6. He concludes that the Commission has jurisdiction to hear the appeal.

The Public Representative contends that the actions taken by the Postal Service in closing Gwynedd station do not serve the broader interest of fostering public confidence in the fairness of post office closings. *Id.* at 8. He is critical of the sequence of events surrounding the closing, and concludes that the public would be left with the impression that public participation in the closing process is mere "window dressing" on a decision already made by the Postal Service. *Id.* at 7. He also sympathizes with the

Petitioner over the lost opportunity to request a suspension of the final determination because of unfamiliarity with the appeals process.

The Public Representative agrees with the Petitioner that the Postal Service's decision is arbitrary and capricious and not supported by substantial evidence. *Id.* at 9. He challenges the Postal Service's reliance on an alleged irreversible decline in revenue at Gwynedd station because the Postal Service's analysis does not take into account the recent and ongoing economic recessions. *Id.* at 9-10. He also challenges the Postal Service's conclusion that the construction on U.S. Route 202 will result in a further restriction of traffic, which would permanently limit access to Gwynedd station. *Id.* at 10. Finally, he questions why the Postal Service is closing Gwynedd station when it is financially operating in the black.¹³ *Id.*

Finally, the Public Representative believes the Postal Service has been non-responsive to customer concerns. *Id.* at 12-13. As an example, he notes that the Postal Service has not adequately addressed customer concerns about the accessibility of the alternate Springhouse station.

Postal Service. The Postal Service argues that this appeal should be dismissed. Postal Service Comments at 8. It argues that even if the requirements of section 404(d) were applicable in the context of the discontinuance of Gwynedd station, it has satisfied the salient statutory provisions. *Id.* at 2-3. The Postal Service states that it distributed a letter dated February 15, 2011 to customers notifying them of the possible discontinuance of Gwynedd station. *Id.* at 3. The Postal Service notes that this notice was furnished to customers well over 60 days before the proposed closing date as required by law. The Postal Service adds that on March 3, 2011, it held a community meeting for customers. *Id.* After making a final decision to discontinue Gwynedd station, the Postal Service announced its decision publicly in a letter to customers dated April 4, 2011. *Id.*

¹³ The Public Representative is critical of the Postal Service's cost savings analysis because most of the cost savings is obtained from an elimination of the salary and benefits of the assigned postal clerk who is merely being reassigned to the North Wales post office. *Id.* at 11.

Further, the Postal Service contends that it considered the pertinent criteria of section 404(d), including the effect on postal services, the community, and employees and economic savings gained from the closing. *Id.* at 3-4. The Postal Service concludes that while there will be a loss of a retail facility in the community, it will continue to provide effective regular service by carrier service administered by the North Wales post office and Post Office Box service offered at the Springhouse station. Final Determination at 4.

V. COMMISSION ANALYSIS

Under 39 U.S.C. 404(d)(1), prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. If the Postal Service decides to close the post office, it must make its Final Determination available to the public for 30 days, allowing patrons the opportunity to appeal the determination to the Commission. The Commission reviews the Postal Service's determination to close or consolidate a post office "on the basis of the record before the Postal Service in the making of such determination." See 39 U.S.C. 404(d)(5).

A. Notice to Customers

On February 15, 2011, the Postal Service notified customers of Gwynedd station of a possible change in service. The Postal Service also invited customers to attend a community meeting with postal officials to address any questions or concerns regarding the possible closure. Administrative Record, Item No. 21 at 1. On March 3, 2011, a community meeting was held at Gwynedd station. Sixty-four customers attended. *Id.* Item No. 26 at 3. In a letter dated April 4, 2011, the Postal Service notified customers of its decision to close Gwynedd station on May 27, 2011. Final Determination, Exhibit 5. On May 3, 2011, a petition for review of the closing of Gwynedd station was filed with the Commission.

The record in this proceeding indicates that customers of Gwynedd station were afforded notice that the Postal Service was reviewing Gwynedd station for possible closure. Further, customers were given an opportunity to provide input to the Postal Service at the community meeting. Based on review of the record, the Postal Service appears to have minimally satisfied the notice requirements of 39 U.S.C. 404(d)(1).

B. Other Statutory Considerations

Under section 404(d)(2)(A), in making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service.

Effect on the community. When considering these factors, particularly the impact on the community, the Postal Service must necessarily solicit input from persons served by the community. Petitioner and the Public Representative assert that the decision to close the facility was effectively made before customers were involved in the process. Petitioner Brief at 3; PR Reply Brief at 7. The record suggests that possibility and, at a minimum, that the Postal Service rushed to judgment on this matter without fully considering views expressed at the public meeting.

The Postal Service does itself no favors when it leaves the impression that public participation is not meaningful. Section 404(d) authorizes the Postal Service to close post offices if it satisfies certain requirements. The process must be honored. If an office is being studied for possible discontinuance its closure cannot be deemed a *fait accompli*. As the Public Representative observes, “the procedures followed in this case for public involvement do not serve the broader interest of fostering public confidence in the fairness of post office closings.” *Id.* at 8. Public participation in the process and the Postal Service’s openness to adjust its decision are critically important.¹⁴

¹⁴ See Docket No. N2009-1, Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches, March 10, 2010, at 48-56 (Docket No. N2009-1, Advisory Opinion).

The Administrative Record does not indicate that the Postal Service provided questionnaires to obtain the views of Gwynedd station customers. This is inconsistent with the way the Postal Service generally handles post office closures. Making questionnaires available provides customers unable to attend the public meeting an opportunity to provide input, thus ensuring broader community participation in the process. The Postal Service's failure to do so in this instance is a shortcoming.¹⁵

At the community meeting customers raised many concerns regarding the possible closure of Gwynedd station. The Postal Service summarizes these concerns and the Postal Service's responses in the Final Determination.

The record indicates that customers voiced concern about access to and parking at Springhouse station. See Petition at 3-4.; Petitioner Brief at 9. The Postal Service's response to these concerns is relatively spare, stating simply that parking is available in the front and rear of the facility. Final Determination at 2. A fuller response is warranted when, as the record suggests, many customers raise safety (access) concerns about the alternate facility. Customers' and the Postal Service's own interests will be served if issues concerning access to and parking at Springhouse station are reviewed further with adjustments made as necessary.

Petitioner provides some historical background about Gwynedd, noting, among other things, that its post office was established in 1810 and is one of the first 35 post offices established in the state of Pennsylvania. Petitioner Brief, Appendix B at 2. She expresses concern over preserving the community's historical identity. *Id.* The Postal Service states that the community identity will be preserved by continued use of the city's name and ZIP Code on its mail. *Id.* at 3.

Petitioner and the Public Representative raise several points about the adequacy of the public record. The Commission has serious concerns about aspects of the Postal

¹⁵ At the public meeting held on March 3, 2011, the Postal Service indicated that in studying a facility for possible closure its practice is to gather "extensive information" by soliciting "customer input via questionnaires, meetings and other methods to ensure that all issues are fully explored before a final decision is made." Administrative Record, Item No. 23 at 8.

Service's discontinuance process in this instance. However, the record supports the conclusion that retail postal services remain available from four nearby facilities. Customers have the option of carrier delivery service or Post Office Box service from the Springhouse station.

Effective and regular service. Petitioner states that closing Gwynedd station poses a significant concern for senior citizens. Petitioner Brief at 9. She indicates that there is retirement community located in close to proximity to Gwynedd station. *Id.* The Postal Service responds that carrier service is beneficial to many senior citizens because the carrier can provide delivery to a mailbox close to the customer's residence. Final Determination at 1.

Some customers complained that Springhouse station was difficult to access. *Id.* at 2. The Postal Service indicates that Springhouse station offers extended window service hours from 8:00 a.m. to 4:30 p.m. Monday through Friday with 24 hour lobby access. *Id.* Further, the Postal Service maintains that there is an adequate number of available post office boxes at Springhouse station to accommodate the 141 post office box customers from Gwynedd station. *Id.* In addition, the Postal Service identifies four retail facilities located within 2 miles of Gwynedd station, including the Gwynedd Valley and North Wales retail facilities. Postal Service Comments at 2.

Upon review of the record in this proceeding, the Commission concludes that the record indicates that the Postal Service will continue to provide effective and regular service to customers served by Gwynedd station. 39 U.S.C. 404(d)(2)(A)(iii).

Economic savings and effect on employees. The Postal Service currently rents the facility housing Gwynedd station and is not required to pay any fee for terminating its lease. Administrative Record, Item No. 2 at 3.

Petitioner and the Public Representative contend that the Postal Service inaccurately misrepresents the economic savings resulting from the closing. Petitioner Brief at 12; PR Reply at 11. Petitioner contends that Gwynedd station clerk's salary reported by the Postal Service should not be included as savings because the clerk is being reassigned to another facility. Petitioner Brief at 12. The Public Representative

notes that the decline in revenue cited by the Postal Service is also misleading because it does not factor in the effect of the current economic recession. There is also controversy over the impact of the U.S. Route 202 road construction on Gwynedd station.

The issue of estimated savings has been addressed in numerous post office appeal proceedings. Moreover, in Docket No. N2009-1, the Commission urged the Postal Service to develop a more holistic approach for estimating the impact of decisions to close retail facilities. See Docket No. N2009-1, Advisory Opinion at 57-61. The Postal Service recently adopted new rules governing the closing of postal retail facilities. 76 FR 41413, 41418 (July 14, 2011). In conjunction with its new rules, the Postal Service indicates it will implement a more robust measurement of financial impact.

The Postal Service estimates of savings are problematic to the extent they include employee compensation expenses that are not eliminated by the closure of a facility. Notwithstanding this, no party contends there will be no savings. In addition, the Postal Service has taken steps to address the effect on employees.

VI. CONCLUSION

The record supports the conclusion that regular and effective service will continue to be provided to customers served by Gwynedd station. As noted above, however, the Commission has serious concerns about the development of the public record in the proceeding below. It is the Commission's expectation that, in future proceedings, the Postal Service will develop a more robust public record, and that, regarding the instant proceeding, the Postal Service will revisit issues concerning access to and parking at Springhouse station and make adjustments as may be necessary.

It is ordered:

The Postal Service's determination to close Gwynedd station is affirmed.

By the Commission.

Shoshana M. Grove
Secretary